



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
WATER COUNCIL

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3434 FAX (603) 271-2982

February 13, 2003



Randall and Caryl Parker  
PO Box 197  
Melvin Village, NH 03850

Re: Docket No. 02-14 WC

Dear Mr. and Mrs. Parker:

On February 12, 2003, the NH Water Council voted to dismiss your notice of appeal of Administrative Order No. WD-02-24 for reasons explained in the enclosed Decision & Order.

If you have any questions, please contact me at (603) 271-6072 or by email at [msclafani@des.state.nh.us](mailto:msclafani@des.state.nh.us)

Sincerely,

Michael Scialfani, Appeals Clerk  
NH Water Council

Cc: F. Wayne DiMarzio, Vice Chairman, NH Water Council  
Harry T. Stewart, P.E., Director, DES Water Division  
Mark Harbaugh, DES Legal Unit



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**STATE OF NEW HAMPSHIRE**  
**WATER COUNCIL**

**Decision & Order**

*Petition For Appeal*  
**Docket No. 02-14 WC**

**Appeal of Randall and Caryl Parker**  
**In Re: Administrative Order No. WD-02-24**  
**Tax Map 28, Lot 38 Tuftonboro, NH**

**Background**

On October 4, 2002, the Department of Environmental Services ("DES") Water Division issued Administrative Order No. WD-02-24 ("the Order") to Randy and Caryl Parker ("the Appellant") pursuant to RSA 483-B:5. In that order, DES ordered that within 30 days of the date of the order the Appellants submit a construction sequence and plan for the relocation of a dry boathouse structure to a location 50 feet from the reference line of Lake Winnepesaukee. And upon approval of the plan, and as conditioned by DES, execute the relocation of the structure by a date specified by DES.

On October 31, 2002 Randall Parker filed a single copy one page letter ("notice of appeal") with the NH Water Council ("the Council") requesting that the Order be appealed to the Council.

NH CODE ADMIN. RULES Env-WC 200 sets forth the proper procedure for filing an appeal with the Council.

Env-WC 202.03(b) states that any document required or allowed by Water Council rules to be filed in conjunction with an appeal shall be filed together with 20 copies of the document.

Env-WC 203.02 states that any appeal shall be filed within 30 days of the date the decision being appealed was issued. As specified in Env-WC 202.04, the appeal shall be deemed to have been filed on the date it is received by the Council Clerk.

Env-WC 203.03 states that (a) Appeals shall be commenced by filing a notice of appeal as specified by this section with the council. (b) A notice of appeal shall include the following: (1) A clear and concise statement of the relief sought and the statutory provision under which the relief is sought; (2) The exact legal name of each person seeking the relief and the person's address; (3) A concise and explicit statement of the facts upon which the council is expected to

reply in granting relief; and (4) A copy of the decision or order which is being appealed. (d) The appellant shall also provide a copy of the notice of appeal to the Director and to the Commissioner of the department.

Upon review of the notice of appeal filed by the Appellant, the Council Clerk determined that the notice of appeal was filed within 30 days of the date the decision being appealed was issued in compliance with Env-WC 203.02. However, the notice of appeal was deficient, in that it did not comply with Env-WC 202.03(b), Env-WC 203.03(b)(1), Env-WC 203.03(b)(3), Env-WC 203.03(b)(4), and Env-WC 203.03(d).

At the direction of the Council, the Council Clerk notified the Appellant by letter dated October 31, 2002, of the notice of appeal's deficiencies. A copy of Env-WC 200 was included in this mailing to the Appellant. The Appellant was given thirty (30) days from October 31, 2002 to resubmit a corrected notice of appeal that meets the requirements of Env-WC 200. The Appellant was informed that if the notice of appeal was resubmitted within the thirty (30) day time period it would be treated as being filed within the time period for filing an appeal to the Council.

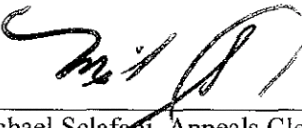
On December 4, 2002 the Appellant resubmitted a corrected notice of appeal. December 4, 2002 represents the thirty-fourth (34<sup>th</sup>) day from October 31, 2002.

### **Order**

On February 12, 2003, the NH Water Council unanimously voted to **DISMISS** this appeal, ruling that the Appellant did not resubmit a corrected notice of appeal within the extended time frame as set forth in the Council Clerks letter of October 31, 2002.

Pursuant to Env-WC 203.29(a), any person whose rights might be directly affected by this decision may file a motion for rehearing within 30 days of the date of this decision. The motion must contain the information specified in Env-WC 203.29(b). Copies of any motion for rehearing shall also be sent or delivered to all other parties of record. Pursuant to Env-WC 203.29(e), this decision shall become final if no motion for rehearing is filed within 30 days.

So Ordered for the NH Water Council by:

  
Michael Sclafani, Appeals Clerk

February 13, 2003